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OFFICE OF PETITIONS

In re Application of :
Joffre B. Baker, Maureen T. Cronin, Steve :
Shak, and Jose Baselga :
Application No. 10/714,195 :
Filed: November 14, 2003 :
Attorney Docket No.: 39740-0005A :
Title: GENE EXPRESSION PROFILING OF :
EGFR POSITIVE CANCER :

DECISION NOTING JOINDER AND
DISMISSING RENEWED PETITION
UNDER 37 C.F.R. §1.47(A) AS MOOT

This is in response to the renewed petition under 37 C.F.R. §1.47(a)¹, filed April 15, 2005.

The above-identified application was filed on November 14, 2003, identifying Joffre B. Baker, Maureen T. Cronin, Steve Shak, and Jose Baselga as joint inventors. On February 24, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration² in compliance with 37 C.F.R. §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

¹ A grantable petition under 37 C.F.R. §1.47(a) requires:

- (1) the petition fee of \$130;
- (2) a surcharge of either \$65 or \$130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
- (3) a statement of the last known address of the non-signing inventors;
- (4) either
 - a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
 - b) proof that the non-signing inventor cannot be found or reached after diligent effort;
- (5) a declaration which complies with 37 CFR §1.63.

² The declaration was not executed.

The original petition was filed on September 21, 2004, and was dismissed via the mailing of a decision on February 15, 2005, for failure to meet requirements (3) – (5) above.

With this renewed petition, a declaration has been submitted which has been executed by the formerly non-signing joint inventor.

As such, the renewed petition is **DISMISSED AS MOOT**.

In view of the joinder of the joint inventor, further consideration under 37 CFR §1.47(a) is not necessary and the petition is considered moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR §1.47(a).

The application file is being returned to Technology Center 1600 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



Paul Shanowski
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Office of Petitions
United States Patent and Trademark Office